

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 03/24/04 Item: 3.b.
	File Number CP 04-006
	Application Type Conditional Use Permit
	Council District 7
	Planning Area Central
	Assessor's Parcel Number(s) 472-11-049
PROJECT DESCRIPTION: Completed by: Jeff Roche	
Location: Southerly side of Highway 280, approximately 1,000 feet westerly of McLaughlin Avenue (935 McLaughlin Ave)	
Gross Acreage: 11.7	Net Acreage: 11.7 Net Density: N/A
Existing Zoning: IP Industrial Park	Existing Use: Industrial
Proposed Zoning: No Change	Proposed Use: Common carrier depot/warehouse use in an existing structure.
GENERAL PLAN Completed by: JR	
Land Use/Transportation Diagram Designation Industrial Park	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING Completed by: JR	
North: Interstate 280	IP Industrial Park
East: Industrial	IP Industrial Park
South: Commercial, Industrial	CN Commercial Neighborhood, IP Industrial Park
West: Landfill, Industrial, Commercial (vacant)	R-1-8 Residence, A (PD) Planned Development
Completed by: JR	
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY Completed by: JR	
Annexation Title: McLaughlin No. 3	Date: July 31 1959

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jeff Roche

Department of Public Works

None received.

Other Departments and Agencies

None received.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, The Equitable Life Assurance Society of the United States, is requesting a Conditional Use Permit to allow a common carrier depot/warehouse use in an existing industrial building. The existing building was designed to accommodate industrial warehouse uses. A common carrier depot/warehouse facility is proposed to occupy the majority of the existing building. The remainder of the building will be used for offices, dispatch and a break room for the common carrier depot. The project will use existing roll-up doors for loading and unloading. The areas in front of these loading doors are paved and improved for truck access.

The subject site was previously zoned *I-Industrial* which allowed warehousing by right. The existing buildings were constructed while the property was zoned *I-Industrial* and were designed to accommodate warehouse or warehouse-like uses. On February 19, 2001, the City Council adopted an updated Zoning Ordinance, and eliminated the *I-Industrial* District. Properties previously zoned *I-Industrial* were rezoned to *IP-Industrial Park*. A Common Carrier Depot/Warehouse use is permitted in the *IP-Industrial Park* District with a Conditional Use Permit.

Surrounding land uses include Interstate 280 to the north, industrial to the east, commercial and industrial to the south, and a former landfill, industrial, and commercial (vacant) to the south.

No changes are proposed to the exterior of the existing building or the project site.

ENVIRONMENTAL REVIEW

COMMUNITY OUTREACH

A public hearing notice for the project was mailed to all property owners and tenants of properties located within 500 feet of the subject site. Staff has received no communication about the project.

ANALYSIS

The primary issue for the proposal is land use compatibility.

The proposed common carrier depot/warehouse use is compatible with the industrial uses in the surrounding area. Industrial park uses are characteristic in the area bounded by Interstate 280, McLaughlin Avenue, Story Road, and Coyote Creek. The proposed common carrier depot/warehouse use maintains the industrial nature of the area and is well suited to the design of the existing building. Parking is sufficient to meet the low parking requirement for a warehouse use. As no exterior modifications to the existing building or project site are proposed, the full range of industrial or industrial park uses could be reinstated in the future in response to future changing market demand. The project is also located near McLaughlin Avenue and Story Road, both of which are identified as arterials on the City's General Plan, and Interstate 280 and US 101, to facilitate truck access. The project will use existing roll-up doors along the westerly and northerly sides of the building for loading and unloading. Staff has concluded that the existing paved areas will allow sufficient room for truck circulation.

Conclusion

Based on the above analysis, staff concludes that the proposed project will be compatible with the surrounding uses and is consistent with both the General Plan and Zoning Ordinance.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

5. A common carrier depot/warehouse facility proposes to occupy up the majority of the existing building. The remainder of the building will be used for offices, dispatch and a break room for the common carrier depot. The project will use existing roll-up doors for loading and unloading.
6. Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
7. On-site parking is provided in compliance with the Zoning Ordinance.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The number of off-street parking spaces provided adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of this Title.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Legacy Transportation Services – 935 McLaughlin Avenue" dated March 11, 2004, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled, and maintained so that no light source is visible from outside of the property.
4. **Outside Storage.** No outside storage is permitted for the project except in areas designated on

7. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-05904) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 04-006, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
10. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.
11. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public streets each working day. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.

13. **Building Permits.** The applicant shall obtain building permits for construction of the structure to

provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

C: John Moniz, HMM, Inc., P.O. Box 611510, San José CA 95161-1510